

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TALECRIS BIOTHERAPEUTICS, INC., and  
BAYER HEALTHCARE LLC,

Plaintiffs,

v.

BAXTER INTERNATIONAL INC., and  
BAXTER HEALTHCARE CORPORATION,

Defendants.

BAXTER HEALTHCARE CORPORATION

Counterclaimant,

v.

TALECRIS BIOTHERAPEUTICS, INC., and  
BAYER HEALTHCARE LLC,

Counterclaim Defendants.

C.A. No. 05-349-GMS

Jury Trial Demanded

REDACTED VERSION DI 184

PLAINTIFFS' MOTION TO STRIKE PORTIONS OF DEFENDANTS' REPLY  
BRIEF AND FOR SANCTIONS OR, IN THE ALTERNATIVE, FOR LEAVE TO  
FILE A SURREPLY

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*Of Counsel for Counterclaim Defendant  
Bayer Healthcare LLC*

Dated: December 4, 2006

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**TALECRIS BIOTHERAPEUTICS, INC., and  
BAYER HEALTHCARE LLC,**

**Plaintiffs,**

**V.**

**BAXTER INTERNATIONAL INC., and  
BAXTER HEALTHCARE CORPORATION,**

## Defendants.

**BAXTER HEALTHCARE CORPORATION**

**Counterclaimant,**

**V.**

**TALECRIS BIOTHERAPEUTICS, INC., and  
BAYER HEALTHCARE LLC,**

### Counterclaim Defendants.

**C.A. No. 05-349-GMS**

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Plaintiffs and Counterclaim Defendants Talecris Biotherapeutics, Inc. and Bayer Healthcare LLC (collectively, “Plaintiffs”) submit this motion to strike portions of the reply brief (Docket Item [“D.I.”] 182) filed by Defendants Baxter International Inc. and Baxter Healthcare Corporation (collectively, “Defendants”) in support of their motion for leave to file an Amended Answer and Counterclaim, and for sanctions, or, in the alternative, for leave to file a surreply, pursuant to D. Del. LR. 7.1.3(b)(2), as set forth

fully in Plaintiffs' Opening Brief submitted concurrently herewith. The certification of counsel required by D. Del. LR. 7.1.1 is attached.

A copy of Plaintiffs' proposed Surreply is attached hereto as Exhibit A. A proposed form of Order and an alternate proposed form of Order are attached hereto as Exhibit B.

WHEREFORE, Plaintiffs respectfully request that the Court grant their motion and enter an Order in accord with those attached hereto as Exhibit B.

Respectfully submitted,

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*Of Counsel for Counterclaim Defendant  
Bayer Healthcare LLC*

Redacted Version: December 11, 2006  
Dated: December 4, 2006

/s/ Jeffrey B. Bove  
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**Counterclaimant,**

**V.**

**TALECRIS BIOTHERAPEUTICS, INC., and  
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**Counterclaim Defendants.**

**REDACTED VERSION**

**CERTIFICATION OF COUNSEL UNDER LOCAL RULE 7.1.1**

On December 4, 2006, counsel for Plaintiffs contacted counsel for Defendants and asked if they would oppose this Motion. Defendants' counsel would not consent, and indicated that they would oppose the Motion.

/s/ *Jaclyn M. Mason*

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**CERTIFICATE OF SERVICE**

I, Jeffrey B. Bove, hereby certify that on December 11, 2006, the within document was filed with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

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